

(that is, unless otherwise defined by the State statute, gross revenues less essential operation and maintenance expense) for the fiscal year preceding the year in which such parity bonds are to be issued, were 120 percent of the average annual debt service requirements on all bonds then outstanding and those to be issued; provided, that this limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then outstanding principal indebtedness. Junior and subordinate bonds may be issued in accordance with the loan agreement.

(9) *Scheduling of FmHA or its successor agency under Public Law 103-354 payments when joint financing is involved.* In all cases in which FmHA or its successor agency under Public Law 103-354 is participating with another lender in the joint financing of the project to supply funds required by one applicant, the FmHA or its successor agency under Public Law 103-354 payments of principal and interest should approximate amortized installments.

(10) *Precautions.* The following types of provisions in debt instruments should be avoided.

(i) Provisions for the holder to manually post each payment to the instrument.

(ii) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than FmHA or its successor agency under Public Law 103-354, may post the date and amount of each advance or repayment on the instrument.

(iii) Defeasance provisions in loan or bond resolutions. When a bond issue is defeased, a new issue is sold which supersedes the contractual provisions of the prior issue, including the refinancing requirement and any lien on revenues. Since defeasance in effect precludes FmHA or its successor agency under Public Law 103-354 from requiring graduation before the final maturity date, it represents a violation of the statutory refinancing requirement, therefore it is disallowed.

(iv) Provisions that amend covenants contained in Forms FmHA 1942-47, "Loan Resolution (Public Bodies)," or FmHA 1942-9, "Loan Resolution Security Agreement."

(11) *Multiple Loan Instruments.* The following will be adhered to when preparing debt instruments:

(i) When more than one loan type is used in financing a project, each type of loan will be evidenced by a separate debt instrument or series of debt instruments.

(ii) Loan funds obligated in different fiscal years and those obligated with different interest rates or terms in the same fiscal year will be evidenced by separate debt instruments.

(iii) Loan funds obligated for the same loan type in the same fiscal year at the same interest rate and term may be combined in the same debt instrument; provided the borrower has been notified on Form FmHA or its successor agency under Public Law 103-354 1940-1, "Request for Obligation of Funds", of the action.

(i) *Bidding by FmHA or its successor agency under Public Law 103-354.* Bonds offered for public sale shall be offered in accordance with State law, in such a manner to encourage public bidding. FmHA or its successor agency under Public Law 103-354 will not submit a bid at the advertised sale unless required by State law, nor will reference to FmHA or its successor agency under Public Law 103-354's rates and terms be included. If no acceptable bid is received, FmHA or its successor agency under Public Law 103-354 will negotiate the purchase of the bonds.

[50 FR 7296, Feb. 22, 1985, as amended at 53 FR 6791, Mar. 3, 1988; 54 FR 18883, May 3, 1989; 56 FR 29168, June 26, 1991; 68 FR 61331, Oct. 28, 2003]

#### § 1942.20 Community Facility Guides.

(a) The following documents are attached and made part of this subpart and may be used by FmHA or its successor agency under Public Law 103-354 officials in administering this program.

(1) Guide 1 and 1a—Guide Letter for Use in Informing Private Lender of FmHA or its successor agency under Public Law 103-354's Commitment.

(2) Guide 2—Water Users Agreement.

(3) Guide 3—Service Declination Statement.

(4) Guide 4—Bylaws.

(5) Guide 5—Financial Feasibility Report.

(6) Guide 6—Preliminary Architectural Feasibility Report.

(7) Guide 7—Preliminary Engineering Report Water Facility.

(8) Guide 8—Preliminary Engineering Report Sewerage Systems.

(9) Guide 9—Preliminary Engineering Report Solid Waste Disposal Systems.

(10) Guide 10—Preliminary Engineering Report Storm Waste-Water Disposal.

(11) Guide 11—Daily Inspection Report.

(12) Guide 12—Memorandum of Understanding Between the Economic Development Administration—Department of Commerce and the Farmers Home Administration or its successor agency under Public Law 103-354—Department of Agriculture Pertaining to EDA Public Works Projects Assisted by an FmHA or its successor agency under Public Law 103-354 Loan.

(13) Guide 13—Memorandum of Understanding Between the Economic Development Administration—Department of Commerce and the Farmers Home Administration or its successor agency under Public Law 103-354—Department of Agriculture Regarding Supplementary Grant Assistance for the Construction of Public Works and Development Facilities.

(14) Guide 14—Legal Services Agreement.

(15) Guide 15—Community Facility Borrower's Application.

(16) Guide 16—Community Facility Loan Docket.

(17) Guide 17—Construction Contract Documents—Short Form.

(18) Guide 18—FmHA or its successor agency under Public Law 103-354 Supplemental General Conditions.

(19) Guide 19—Construction Contract Documents.

(20) Guide 20—Agreement for Engineering Services (FmHA or its successor agency under Public Law 103-354/EPA Jointly Funded Projects).

(21) Guide 21—Review of Audit Reports.

(22) Guide 22—Delinquent Accounts Positive Action Plan.

(23) Guide 23—Agreement for Joint Use of Electric System Poles.

(24) Guide 24—Minimum Suggested Contents of Management Agreements.

(25) Guide 25—Joint Policy Statement Between EPA and FmHA or its successor agency under Public Law 103-354.

(26) Guide 26—Community Programs Project Selection Criteria.

(27) Exhibit A—Circular No. A-128.

(28) Exhibit B—Department of Agriculture Regional Inspector General (OIG).

(b) These guides and exhibits are for use by FmHA or its successor agency under Public Law 103-354 officials, applicants and applicant's officials and/or agents on certain matters related to the planning, development, and operation of essential community facilities which involve the use of loans and/or grants from FmHA or its successor agency under Public Law 103-354. This includes activities related to applying for and obtaining such financial assistance. These guides and exhibits are not published in the FEDERAL REGISTER, however, they are available in any FmHA or its successor agency under Public Law 103-354 office.

[50 FR 7296, Feb. 22, 1985, as amended at 53 FR 6787, Mar. 3, 1988]

#### **§ 1942.21 Statewide nonmetropolitan median household income.**

*Statewide nonmetropolitan median household income* means the median household income of the State's nonmetropolitan counties and portions of metropolitan counties outside of cities, towns or places, of 50,000 or more population.

[69 FR 65519, Nov. 15, 2004]

#### **§§ 1942.22-1942.49 [Reserved]**

#### **§ 1942.50 OMB control number.**

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0015. Public reporting burden for this collection of information is estimated to vary from five minutes to 15 hours per response, with an average of 2.7 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding